

set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

### **§ 1098. Advisory Committee on Student Financial Assistance**

#### **(a) Establishment and purpose**

(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the “Advisory Committee”) which shall provide advice and counsel to the authorizing committees and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms;

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students;

(D) to provide knowledge and understanding of early intervention programs, and to make recommendations that will result in early awareness by low- and moderate-income students and families—

(i) of their eligibility for assistance under this subchapter; and

(ii) to the extent practicable, of their eligibility for other forms of State and institutional need-based student assistance;

(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions of higher education, and private entities to increase the awareness and the total amount of need-based student assistance available to low- and moderate-income students; and

(F) to collect information on Federal regulations, and on the impact of Federal regulations on student financial assistance and on the cost of receiving a postsecondary education, and to make recommendations to help streamline the regulations for institutions of higher education from all sectors.

#### **(b) Independence of Advisory Committee**

In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations, expenditures and staffing levels, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee’s administration and management shall be subject to the usual and customary Federal audit procedures. Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary. The recommendations of the Committee shall not be

subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the authorizing committees in accordance with subsection (f). The Secretary’s authority to terminate advisory committees of the Department pursuant to section 1233g(b)<sup>1</sup> of this title ceased to be effective on June 23, 1983.

#### **(c) Membership**

(1) The Advisory Committee shall consist of 11 members appointed as follows:

(A) Four members shall be appointed by the President pro tempore of the Senate, of whom two members shall be appointed from recommendations by the Majority Leader of the Senate, and two members shall be appointed from recommendations by the Minority Leader of the Senate.

(B) Four members shall be appointed by the Speaker of the House of Representatives, of whom two members shall be appointed from recommendations by the Majority Leader of the House of Representatives, and two members shall be appointed from recommendations by the Minority Leader of the House of Representatives.

(C) Three members shall be appointed by the Secretary, of whom at least one member shall be a student.

(2) Each member of the Advisory Committee, with the exception of a student member, shall be appointed on the basis of technical qualifications, professional experience, and demonstrated knowledge in the fields of higher education, student financial aid, financing post-secondary education, and the operations and financing of student loan guarantee agencies.

(3) The appointment of a member under subparagraph (A) or (B) of paragraph (1) shall be effective upon publication of such appointment in the Congressional Record.

#### **(d) Functions of the Committee**

The Advisory Committee shall—

(1) develop, review, and comment annually upon the system of needs analysis established under part F of this subchapter;

(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this subchapter and assist the Department of Education in improving the delivery of student aid;

(4) assess the impact of legislative and administrative policy proposals;

(5) review and comment upon, prior to promulgation, all regulations affecting programs under this subchapter, including proposed regulations;

(6) recommend to the authorizing committees and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met;

<sup>1</sup> See References in Text note below.

(7) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs;

(8) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs;

(9) provide an annual report to the authorizing committees that provides analyses and policy recommendations regarding—

(A) the adequacy of need-based grant aid for low- and moderate-income students; and

(B) the postsecondary enrollment and graduation rates of low- and moderate-income students;

(10) develop and maintain an information clearinghouse to help institutions of higher education understand the regulatory impact of the Federal Government on institutions of higher education from all sectors, in order to raise awareness of institutional legal obligations and provide information to improve compliance with, and to reduce the duplication and inefficiency of, Federal regulations; and

(11) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.

#### **(e) Operations of the Committee**

(1) Each member of the Advisory Committee shall be appointed for a term of 4 years, except that, of the members first appointed—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee serving on August 14, 2008, shall be permitted to serve the duration of the member's term, regardless of whether the member was previously appointed to more than one term.

(3) No officers or full-time employees of the Federal Government shall serve as members of the Advisory Committee.

(4) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(5) Six members of the Advisory Committee shall constitute a quorum.

(6) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

#### **(f) Submission to Department for comment**

The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

#### **(g) Compensation and expenses**

Members of the Advisory Committee may each receive reimbursement for travel expenses inci-

dent to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

#### **(h) Personnel and resources**

(1) The Advisory Committee may appoint such personnel as may be determined necessary by the Chairman without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule. The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.

(2) In carrying out its duties under this chapter, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants without regard to section 3109 of title 5 and to set pay in accordance with such section.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

#### **(i) Availability of funds**

In each fiscal year not less than \$800,000, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

#### **(j) Special analyses and activities**

The Advisory Committee shall—

(1) monitor and evaluate the modernization of student financial aid systems and delivery processes and simplifications, including recommendations for improvement;

(2) assess the adequacy of current methods for disseminating information about programs under this subchapter and recommend improvements, as appropriate, regarding early needs assessment and information for first-year secondary school students;

(3) assess and make recommendations concerning the feasibility and degree of use of appropriate technology in the application for, and delivery and management of, financial assistance under this subchapter, as well as policies that promote use of such technology to reduce cost and enhance service and program integrity, including electronic application and reapplication, just-in-time delivery of funds, reporting of disbursements and reconciliation;

(4) conduct a review and analysis of regulations in accordance with subsection (l); and

(5) conduct a study in accordance with subsection (m).

**(k) Term of Committee**

Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act or any other statute or regulation, the Advisory Committee shall be authorized until October 1, 2015.

**(l) Review and analysis of regulations**

**(1) Recommendations**

The Advisory Committee shall make recommendations to the Secretary and the authorizing committees for consideration of future legislative action regarding redundant or outdated regulations consistent with the Secretary's requirements under section 1099c-2 of this title.

**(2) Review and analysis of regulations**

**(A) Review of current regulations**

To meet the requirements of subsection (d)(10), the Advisory Committee shall conduct a review and analysis of the regulations issued by Federal agencies that are in effect at the time of the review and that apply to the operations or activities of institutions of higher education from all sectors. The review and analysis may include a determination of whether the regulation is duplicative, is no longer necessary, is inconsistent with other Federal requirements, or is overly burdensome. In conducting the review, the Advisory Committee shall pay specific attention to evaluating ways in which regulations under this subchapter affecting institutions of higher education (other than institutions described in section 1002(a)(1)(C) of this title), that have received in each of the two most recent award years prior to August 14, 2008, less than \$200,000 in funds through this subchapter, may be improved, streamlined, or eliminated.

**(B) Review and collection of future regulations**

The Advisory Committee shall—

(i) monitor all Federal regulations, including notices of proposed rulemaking, for their impact or potential impact on higher education; and

(ii) provide a succinct description of each regulation or proposed regulation that is

generally relevant to institutions of higher education from all sectors.

**(C) Maintenance of public website**

The Advisory Committee shall develop and maintain an easy to use, searchable, and regularly updated website that—

(i) provides information collected in subparagraph (B);

(ii) provides an area for the experts and members of the public to provide recommendations for ways in which the regulations may be streamlined; and

(iii) publishes the study conducted by the National Research Council of the National Academy of Sciences under section 1106 of the Higher Education Opportunity Act.

**(3) Consultation**

**(A) In general**

In carrying out the review, analysis, and development of the website required under paragraph (2), the Advisory Committee shall consult with the Secretary, other Federal agencies, relevant representatives of institutions of higher education, individuals who have expertise and experience with Federal regulations, and the review panels described in subparagraph (B).

**(B) Review panels**

The Advisory Committee shall convene not less than two review panels of representatives of the groups involved in higher education, including individuals involved in student financial assistance programs under this subchapter, who have experience and expertise in the regulations issued by the Federal Government that affect all sectors of higher education, in order to review the regulations and to provide recommendations to the Advisory Committee with respect to the review and analysis under paragraph (2). The panels shall be made up of experts in areas such as the operations of the financial assistance programs, the institutional eligibility requirements for the financial assistance programs, regulations not directly related to the operations or the institutional eligibility requirements of the financial assistance programs, and regulations for dissemination of information to students about the financial assistance programs.

**(4) Periodic updates to the authorizing committees**

The Advisory Committee shall—

(A) submit, not later than two years after the completion of the negotiated rulemaking process required under section 1098a of this title resulting from the amendments to this chapter made by the Higher Education Opportunity Act, a report to the authorizing committees and the Secretary detailing the review panels' findings and recommendations with respect to the review of regulations; and

(B) provide periodic updates to the authorizing committees regarding—

(i) the impact of all Federal regulations on all sectors of higher education; and

(ii) suggestions provided through the website for streamlining or eliminating duplicative regulations.

**(5) Additional support**

The Secretary and the Inspector General of the Department shall provide such assistance and resources to the Advisory Committee as the Secretary and Inspector General determine are necessary to conduct the review and analysis required by this subsection.

**(m) Study of innovative pathways to baccalaureate degree attainment**

**(1) Study required**

The Advisory Committee shall conduct a study of the feasibility of increasing baccalaureate degree attainment rates by reducing the costs and financial barriers to attaining a baccalaureate degree through innovative programs.

**(2) Scope of study**

The Advisory Committee shall examine new and existing programs that promote baccalaureate degree attainment through innovative ways, such as dual or concurrent enrollment programs, changes made to the Federal Pell Grant program, simplification of the needs analysis process, compressed or modular scheduling, articulation agreements, and programs that allow two-year institutions of higher education to offer baccalaureate degrees.

**(3) Required aspects of the study**

In performing the study described in this subsection, the Advisory Committee shall examine the following aspects of such innovative programs:

(A) The impact of such programs on baccalaureate attainment rates.

(B) The degree to which a student's total cost of attaining a baccalaureate degree can be reduced by such programs.

(C) The ways in which low- and moderate-income students can be specifically targeted by such programs.

(D) The ways in which nontraditional students can be specifically targeted by such programs.

(E) The cost-effectiveness for the Federal Government, States, and institutions of higher education to implement such programs.

**(4) Consultation**

**(A) In general**

In performing the study described in this subsection, the Advisory Committee shall consult with a broad range of interested parties in higher education, including parents, students, appropriate representatives of secondary schools and institutions of higher education, appropriate State administrators, administrators of dual or concurrent enrollment programs, and appropriate Department officials.

**(B) Consultation with the authorizing committees**

The Advisory Committee shall consult on a regular basis with the authorizing commit-

tees in carrying out the study required by this subsection.

**(5) Reports to authorizing committees**

**(A) Interim report**

The Advisory Committee shall prepare and submit to the authorizing committees and the Secretary an interim report, not later than one year after August 14, 2008, describing the progress made in conducting the study required by this subsection and any preliminary findings on the topics identified under paragraph (2).

**(B) Final report**

The Advisory Committee shall, not later than three years after August 14, 2008, prepare and submit to the authorizing committees and the Secretary a final report on the study, including recommendations for legislative, regulatory, and administrative changes based on findings related to the topics identified under paragraph (2).

(Pub. L. 89-329, title IV, § 491, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1492; amended Pub. L. 100-50, § 15(16)–(18), June 3, 1987, 101 Stat. 357; Pub. L. 102-325, title IV, § 496, July 23, 1992, 106 Stat. 631; Pub. L. 103-208, § 2(h)(45), (46), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105-244, title IV, § 490C, Oct. 7, 1998, 112 Stat. 1754; Pub. L. 110-315, title IV, § 494C, Aug. 14, 2008, 122 Stat. 3319; Pub. L. 111-39, title IV, § 407(b)(11), July 1, 2009, 123 Stat. 1953; Pub. L. 113-174, § 2, Sept. 26, 2014, 128 Stat. 1900.)

REFERENCES IN TEXT

Section 1233g of this title, referred to in subsec. (b), was repealed by Pub. L. 103-382, title II, § 212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

The Federal Advisory Committee Act, referred to in subsec. (k), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Higher Education Opportunity Act, referred to in subsec. (l)(2)(A), is Pub. L. 110-315, Aug. 14, 2008, 122 Stat. 3078. Section 1106 of the Act is not classified to the Code. For complete classification of such Act to the Code, see Short Title of 2008 Amendment note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1098, Pub. L. 89-329, title IV, § 491, as added Pub. L. 96-374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1454; amended Pub. L. 98-79, § 11, Aug. 15, 1983, 97 Stat. 484, related to a National Commission on Student Financial Assistance, prior to the general revision of this part by Pub. L. 99-498.

Another prior section 491 of Pub. L. 89-329 amended former section 403 of this title.

AMENDMENTS

2014—Subsec. (k). Pub. L. 113-174 substituted “2015” for “2014”.

2009—Subsec. (l)(2)(A). Pub. L. 111-39 made technical amendment to reference in original act which appears in text as reference to August 14, 2008.

2008—Subsec. (a)(1). Pub. L. 110-315, § 494C(b), substituted “authorizing committees” for “Congress”.

Subsec. (a)(2)(D) to (F). Pub. L. 110-315, § 494C(a)(1), added subpars. (D) to (F).

Subsec. (b). Pub. L. 110-315, § 494C(b), substituted “authorizing committees” for “Congress”.

Subsec. (c). Pub. L. 110-315, § 494C(a)(2), added subsec. (c) and struck out former subsec. (c) relating to appointment and qualifications of Advisory Committee members.

Subsec. (d)(6). Pub. L. 110-315, §494C(a)(3)(A), (b), substituted “authorizing committees” for “Congress” and struck out “, but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses” before semicolon.

Subsec. (d)(9) to (11). Pub. L. 110-315, §494C(a)(3)(B)–(D), added pars. (9) and (10) and redesignated former par. (9) as (11).

Subsec. (e)(1). Pub. L. 110-315, §494C(a)(4)(A), substituted “4 years” for “3 years” in introductory provision.

Subsec. (e)(2). Pub. L. 110-315, §494C(a)(4)(B), substituted “A member of the Advisory Committee serving on August 14, 2008, shall be permitted to serve the duration of the member’s term, regardless of whether the member was previously appointed to more than one term.” for “A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.”

Subsec. (j)(1). Pub. L. 110-315, §494C(a)(5)(A), inserted “and simplifications” after “delivery processes” and struck out “including the implementation of a performance-based organization within the Department, and report to Congress regarding such modernization on not less than an annual basis,” before “including recommendations for improvement”.

Subsec. (j)(4), (5). Pub. L. 110-315, §494C(a)(5)(B), added pars. (4) and (5) and struck out former pars. (4) and (5) which read as follows:

“(4) assess the implications of distance education on student eligibility and other requirements for financial assistance under this subchapter, and make recommendations that will enhance access to postsecondary education through distance education while maintaining access, through on-campus instruction at eligible institutions, and program integrity; and

“(5) make recommendations to the Secretary regarding redundant or outdated provisions of and regulations under this chapter, consistent with the Secretary’s requirements under section 1099c-2 of this title.”

Subsec. (k). Pub. L. 110-315, §494C(a)(6), substituted “2014” for “2004”.

Subsecs. (l), (m). Pub. L. 110-315, §494C(a)(7), added subsecs. (l) and (m).

1998—Subsec. (b). Pub. L. 105-244, §490C(1), substituted “, expenditures and staffing levels” for “and expenditures” in second sentence and inserted “Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary.” after third sentence.

Subsec. (e)(3) to (6). Pub. L. 105-244, §490C(2), added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively.

Subsec. (g). Pub. L. 105-244, §490C(3), substituted “Members of the Advisory Committee may each” for

“(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

“(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each”.

Subsec. (h)(1). Pub. L. 105-244, §490C(4), inserted “determined” after “as may be” and inserted at end “The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.”

Subsec. (i). Pub. L. 105-244, §490C(5), substituted “\$800,000” for “\$750,000”.

Subsec. (j). Pub. L. 105-244, §490C(6), amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: “The committee shall—

“(1) monitor and evaluate the program modifications resulting from the enactment of the Higher Education Amendments of 1992, especially as such amendments relate to the need analysis;

“(2) monitor and evaluate the implementation, pursuant to section 1090 of this title, of a Free Application for Federal Student Aid and the process for determining eligibility and awards for programs under this subchapter, including a simplified reapplication process;

“(3) assess the adequacy of current methods for disseminating information about programs under this subchapter and recommend improvements, as appropriate, regarding early needs assessment and information for first-year high school students; and

“(4) assess the adequacy of methods of monitoring student debt burden.”

Subsec. (k). Pub. L. 105-244, §490C(7), substituted “2004” for “1998”.

Subsec. (l). Pub. L. 105-244, §490C(8), struck out heading and text of subsec. (l) which directed Advisory Committee to conduct a study of means of simplifying all aspects of loan programs under part B of this subchapter.

1993—Subsec. (d)(1). Pub. L. 103-208, §2(h)(45), struck out “sections 1070a-1 through 1070a-5 of this title and” after “established under”.

Subsec. (h)(1). Pub. L. 103-208, §2(h)(46), substituted “subchapter III” for “subtitle III” before “of chapter 53 of such title”.

1992—Subsec. (b). Pub. L. 102-325, §496(a), inserted after first sentence “Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee’s administration and management shall be subject to the usual and customary Federal audit procedures.”

Subsec. (d)(3). Pub. L. 102-325, §496(b)(1), struck out “and in assessing the impact of legislative and administrative policy proposals” after “student aid”.

Subsec. (d)(4) to (9). Pub. L. 102-325, §496(b)(2)–(6), added par. (4), redesignated former pars. (4) to (7) as (5) to (8), respectively, and added par. (9).

Subsec. (h)(4). Pub. L. 102-325, §496(c), substituted “without regard to” for “in accordance with” and inserted before period at end “and to set pay in accordance with such section”.

Subsec. (i). Pub. L. 102-325, §496(d), substituted “\$750,000” for “\$500,000”.

Subsecs. (j) to (l). Pub. L. 102-325, §496(e), added subsecs. (j) to (l) and struck out former subsec. (j), which related to special institutional lender study.

1987—Subsec. (b). Pub. L. 100-50, §15(16), inserted at end “The Secretary’s authority to terminate advisory committees of the Department pursuant to section 1233g(b) of this title ceased to be effective on June 23, 1983.”

Subsec. (i). Pub. L. 100-50, §15(17), substituted “In each fiscal year not less than \$500,000” for “An amount, not to exceed \$500,000 in any fiscal year”.

Subsec. (j). Pub. L. 100-50, §15(18), added subsec. (j).

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L.

102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

#### REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

### § 1098a. Regional meetings and negotiated rulemaking

#### (a) Meetings

##### (1) In general

The Secretary shall obtain public involvement in the development of proposed regulations for this subchapter. The Secretary shall obtain the advice of and recommendations from individuals and representatives of the groups involved in student financial assistance programs under this subchapter, such as students, legal assistance organizations that represent students, institutions of higher education, State student grant agencies, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies.

##### (2) Issues

The Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of this subchapter through such mechanisms as regional meetings and electronic exchanges of information. The Secretary shall take into account the information received through such mechanisms in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

#### (b) Draft regulations

##### (1) In general

After obtaining the advice and recommendations described in subsection (a)(1) and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing this subchapter and shall submit such regulations to a negotiated rulemaking process. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups described in subsection (a)(1), and shall include both representatives of such groups from Washington, D.C., and industry participants. The Secretary shall select individuals with demonstrated expertise or experience in the relevant subjects under negotiation, reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be con-

ducted in a timely manner in order that the final regulations may be issued by the Secretary within the 360-day period described in section 1232(e) of this title.

#### (2) Expansion of negotiated rulemaking

All regulations pertaining to this subchapter that are promulgated after October 7, 1998, shall be subject to a negotiated rulemaking (including the selection of the issues to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from such agreements. Such negotiated rulemaking shall be conducted in accordance with the provisions of paragraph (1), and the Secretary shall ensure that a clear and reliable record of agreements reached during the negotiations process is maintained.

#### (c) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act shall not apply to activities carried out under this section.

#### (d) Authorization of appropriations

There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year such sums as may be necessary to carry out the provisions of this section, except that if no funds are appropriated pursuant to this subsection, the Secretary shall make funds available to carry out this section from amounts appropriated for the operations and expenses of the Department of Education.

(Pub. L. 89–329, title IV, § 492, as added Pub. L. 102–325, title IV, § 497, July 23, 1992, 106 Stat. 633; amended Pub. L. 105–244, title IV, § 490D, Oct. 7, 1998, 112 Stat. 1755; Pub. L. 110–315, title IV, § 494D, Aug. 14, 2008, 122 Stat. 3324; Pub. L. 111–39, title IV, § 407(b)(12), July 1, 2009, 123 Stat. 1953.)

#### REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

#### AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–39, § 407(b)(12)(A), substituted “regulations for this subchapter. The” for “regulations for parts B, G, and H of this subchapter. The”.

Subsec. (a)(2). Pub. L. 111–39, § 407(b)(12)(B), substituted “The Secretary shall provide” for text from beginning of par. (2) through “provide”, resulting in text identical to that after execution of the amendment by Pub. L. 105–244, § 490D(a)(2)(A). See 1998 Amendment note below.